

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK
UNITED STATES OF AMERICA,

USDC SDNY
DOCUMENT
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-against-

23 Cr. 118 (AT)

MILES GUO,

ORDER

Defendant.

ANALISA TORRES, District Judge:

On May 17 and 21, 2024, the Government moved pursuant to Sections 5 and 6(a) of the Classified Information Procedure Act (“CIPA”) for an order precluding Defendant, Miles Guo, from eliciting at trial certain testimony from an anticipated government witness (“Witness-2”). For the reasons stated in the Court’s sealed order dated May 21, 2024, ECF No. 356, the Government’s Section 5 motion is DENIED, and its Section 6(a) motion is GRANTED.

On May 6, 2024, the Government produced Witness-2’s § 3500 material to the defense. *See* Guo Section 5 Opp. at 4, ECF No. 340. After reviewing the § 3500 material, defense counsel filed a letter with the Court requesting an *ex parte* CIPA Section 2 conference based on their belief that their anticipated cross-examination of Witness-2 may implicate classified information (the “Purported Classified Information”). *Id.*; Guo Section 6(a) Opp. at 4–5, ECF No. 354 (under seal and on file with Court).

On May 14, 2024, the Court held a CIPA Section 2 conference with defense counsel and instructed them to provide proper Section 5 notice to the Government. The same day, defense counsel provided the Government with Section 5 notice stating that Guo seeks to elicit the Purported Classified Information. Guo Section 5 Opp. at 4.

On May 17, 2024, the Government moved *in limine*, pursuant to CIPA Section 5, to preclude Guo from asking Witness-2 about the Purported Classified Information. Gov. Section 5

Mem., ECF No. 339. On May 18, 2024, Guo filed a response. Guo Section 5 Opp. By order dated May 19, 2024, the Court directed the Government to file a CIPA Section 6(a) motion and the defense to respond. *See* Section 6(a) Scheduling Order, ECF No. 346. On May 21, 2024, the parties filed their Section 6(a) papers. Gov. Section 6(a) Mem., ECF No. 355 (under seal and on file with the Court); Guo Section 6(a) Opp. The same day, the Court held a Section 6(a) hearing with both parties.

By sealed order dated May 21, 2024, ECF No. 356, the Court denied the Government's Section 5 motion, finding that Guo's Section 5 notice was timely and sufficiently particular. *Id.* at 4. The Court, however, granted the Government's Section 6(a) motion on the basis that the limited probative value of the Purported Classified Information is outweighed by the risk of needlessly presenting cumulative evidence and confusing the jury. *Id.* at 4–5.

SO ORDERED.

Dated: May 29, 2024
New York, New York


ANALISA TORRES
United States District Judge